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Paper No. 14

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SAN JOSE, CA 95113

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OFFICE OF PETITIONS

In re Application of :
Anton et al. : DECISION ON PETITION
Application No. 09/629,408 :
Filed: August 1, 2000 :
Atty Docket No. 35817/02369827:

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This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed August 14, 2006.

The petition is GRANTED.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed March 1, 2004. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective June 2, 2004. A courtesy Notice of Abandonment was mailed on September 15, 2004.

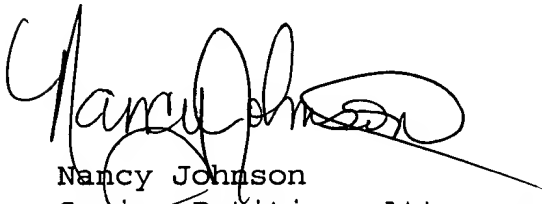
The petition includes the required reply in the form of an amendment, the statement of unintentional delay and payment of the petition fee. No terminal disclaimer is required.

The petition also included a Request for Continued Examination (RCE). As prosecution has not closed in the instant application (the Office action mailed March 1, 2004 was not a final rejection), submission of an RCE is improper. See MPEP 706.07(h). On petition to revive, the submission an amendment is forwarded to the examiner as the required reply to the non-final Office action.

The above-identified application has been abandoned for an extended period of time. The United States Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the United States Patent and Trademark Office.)

Technology Center AU 2131 has been advised of this decision. The application is, thereby, forwarded to the Technology Center's technical support staff for processing of the improper RCE and to the examiner for consideration of the amendment submitted on petition filed August 14, 2006.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions